IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5967 OF 2005
IN
CRIMINAL APPEAL NO.928 OF 2003

The State of Maharashtra ..Applicant.

V/s.

Vinayakd Shivaji Bhegade. ..Respondent.

Ms.S.V.Gajare, APP for applicant.

Mr.Uday Warunjikar with Ms.Deepali Bhalekar for respondent.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 23, 2005.

P.C. :

1. Heard learned APP for the applicant. Ms. Deepali Bhalekar appears for respondent. She states that her client has still not arrived to give instructions. The background in which I am required to reject the request for any further time is already spelt out in my detailed order dated 22nd December, 2005. There is no changed circumstance to take a different view in the matter. Moreover, in the morning when this matter was called out Mr.Warunjikar himself appeared and requested the court to keep the matter at 3 p.m. anticipating that respondent will contact him before that. Accordingly, indulgence was shown and matter was kept at 3 p.m. However, when

the matter was called out after lunch break Mr.Warunjikar is not present and has deputed his colleague Ms.Bhalekar, Advocate who has joined the bar only this Monday. Suffice it to observe that the respondent is trying to overreach this court. When I am dictating this order, now Mr.Warunjikar steps in and appears before me. He submits that the respondent has not given any appropriate instructions nor contacted him so far.

2. In the circumstances, I proceed to pass order on merits of this application.

3. The applicant-prosecution asserts that respondent was released on bail in respect of the offence of MCOCA, which is a serious offence and non-bailable one on 18th August, 2003, on certain conditions. The respondent has not complied with the condition of reporting to the concerned police station once in a month. The respondent made only one appearance before the concerned police station on 6th April, 2004. As respondent was not complying with the said condition imposed by this court while releasing him on bail, the respondent was reminded by the concerned police station vide letter dated 8th March, 2005. Inspite of that letter, the respondent

did not appear before the concerned police station even once thereafter. It is then asserted on affidavit that while on bail the respondent has committed further offences one such being C.R.No.108 of 2004 punishable under section 452, 354, 504, 506 of the I.P.Code read with 3(1)(XI) of the Prevention of Atrocities Act dated 3rd October, 2004. The other offence is noncognizable offence No.592 of 2004 under section 504 and 506 of I.P.Code dated 21st November, 2004. It is also stated that chapter proceedings under section 110(e)(g) have been initiated in which interim bond was required to be executed by the respondent. It is stated that during the pendency of the said chapter proceedings the respondent committed offence under section 386, 326, 323, 504, 506 r/w 34 of the I.P.Code which was registered at C.R.No.90 of 2005 at Talegaon Dabhade Police Station and came to be arrested in respect of the said crime on 6th June, 2005.

4. The sum and substance of the application taken out by the prosecution is that the respondent has not complied with condition imposed by this court for releasing the respondent on bail. Besides the respondent has indulged in further offences while on bail, which, by itself, is a sufficient ground for

cancellation of bail. The averments made in the subject application have not been countered. There is no reason to doubt the correctness of the statement made on affidavit by API Talegaon Dabhade Police Station. In my opinion, this application deserves to be allowed for the reasons already indicated above and also because of the conduct of the respondent as has been noted in the order passed on 22nd December, 2005 which is nothing but an attempt to overreach the court. Hence this application is allowed in terms of prayer clause (1), which reads thus :

> "(1) The order dated 18.8.2003 passed by this Hon'ble High Court granting bail to the Respondent be cancelled/called back and the respondent be committed to custody."

5. It will be open to the concerned police station to forthwith arrest the respondent and take him in custody in connection with the offence in relation to C.R.No.28 of 2001 registered for offence punishable amongst other section 3(1) 3(4) of the MCOCA Act. In the event the Respondent cannot be arrested inspite of best efforts by the police within one week, the main appeal be listed for appropriate

"directions" on 10th January, 2006. In addition, the prosecution will be free to proceed against the respondent in accordance with law including to declare him proclaimed offender.

6. At this stage, Mr.Warunjikar submits that court may record the fact that he personally contacted the local advocate for instruction but no instructions are forthcoming.

7. The application allowed on the above terms.